

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| AGNES B. CHAPSKI, Plaintiff, -against- COSMETIC EXECUTIVE WOMEN, INC., et al., Defendants. |
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24-CV-06129 (MMG)

ORDER OF DISMISSAL

MARGARET M. GARNETT, United States District Judge:

“[S]ubject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power.” *Curley v. Brignoli, Curley & Roberts Assocs.*, 915 F.2d 81, 83 (2d Cir. 1990). Consistent with that proposition, Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

In this case, Defendants removed this action from the Supreme Court of the State of New York on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1331, based upon the originally pleaded claim under the Fair Labor Standards Act. *See* Dkt. 1. On August 14, 2024, the Defendants subsequently filed a partial motion to dismiss. *See* Dkt. No. 6. In response, pursuant to this Court’s Individual Rules I(C)(3) and II(B)(6), Plaintiff filed an Amended Complaint removing all federal law claims. *See* Dkt. No. 10. Plaintiff’s non-federal claims against Defendants remain. On August 27, 2024, Plaintiff filed a letter requesting the Court remand this matter to the Supreme Court of the State of New York. *See* Dkt. No. 11. Based on communication with all counsel, the Court understands that Defendants’ counsel concedes they have no basis to object to the remand of this action.

A review of the notice of removal and the complaint in this action reveals no basis for federal subject matter jurisdiction over the remaining claims. Accordingly, the complaint is hereby REMANDED to New York Supreme Court without prejudice for lack of subject matter jurisdiction. Any pending motions are moot, and any conferences are canceled. The Clerk of Court is respectfully directed to close the case.

Dated: August 28, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge